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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,244	02/24/2004	Ludger Mimberg	NVID-P001166	2724
<div>7590 05/15/2007 WAGNER, MURABITO & HAO LLP Third Floor Two North Market Street San Jose, CA 95113</div>			<div>EXAMINER SMITH, TYRONE W</div> <div>ART UNIT 2837 PAPER NUMBER</div> <div>MAIL DATE 05/15/2007 DELIVERY MODE PAPER</div>	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/786,244	MIMBERG, LUDGER	
	Examiner	Art Unit	
	Tyrone W. Smith	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5-10, 12, and 17- 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Witt (5742142) in view of Makaran et al (6774587).

Regarding Claims 1, 10 and 23. Witt discloses an low radiated emission motor speed control with PWM regulation which includes a pulse width modulation generator (Figure 3 item 22) for generating a pulse width modulation signal', and a drive stage circuit (Figure 3 items 26, 28, 30 and 32) coupled to the pulse width modulation generator and for switch mode converting a supply voltage into a linear voltage for driving a fan, wherein a voltage level of linear voltage is a function of the pulse width modulation signal. Refer to the abstract, column 2 lines 56-67, column 3 lines 1-40 and column 4 lines 20-38. It should be noted that in the Witt is related to blower motor for heat and ventilation (column 1 lines 10-22) and provides that same structure for switching PWM to linear voltage (sinusoidal ripple voltage) where Witt teaches away from using linear voltage amplifiers.

However, Witt does not disclose the operating frequency of the PWM generator is approximately within the range of 200-100kHz.

Makaran discloses a multiple brush-type motor control apparatus and method which includes the operating frequency (PWM) can be at a high frequency of 10Khz – 500kHz. Refer to column 4 lines 46-59.

It would have been obvious to one of ordinary skill in the art at the time of invention to use Witt's invention with Makaran's multiple brush-type motor control apparatus and method. The advantage of combining the two would provide a system that allows the use of low or high frequency switching signals, thereby eliminating and/or reducing EMI issues.

Regarding Claim 8. Witt discloses a low radiated emission motor speed control with PWM regulation, which includes a pulse width modulation generator (Figure 3 item 22) for generating a pulse width modulation signal, and a drive stage circuit (Figure 3 items 26, 28, 30 and 32) coupled to the pulse width modulation generator and for switch mode converting a supply voltage into a linear voltage for driving a fan, wherein a voltage level of linear voltage is a function of the pulse width modulation signal. Refer to the abstract, column 2 lines 56-67, column 3 lines 1-40 and column 4 lines 20-38. Witt discloses a first transistor (Figure 3 item 26) having a gate for receiving said pulse width modulation signal and a source coupled to a first potential, a current shunting element (Figure 3 item 32) having a first terminal coupled to a drain of the first transistor and a second terminal coupled to a second potential, a capacitor (Figure 3 item 30) having a first terminal coupled to the second terminal of the current shunting element, and an inductor (Figure 3 item 28) having a first terminal coupled to a second terminal of the capacitor and a second terminal coupled to the first terminal of the current shunting element and to the drain of the first transistor.

However, Witt does not disclose the operating frequency of the PWM generator is approximately within the range of 200-100kHz.

Makaran discloses a multiple brush-type motor control apparatus and method which includes the operating frequency (PWM) can be at a high frequency of 10Khz – 500kHz. Refer to column 4 lines 46-59.

It would have been obvious to one of ordinary skill in the art at the time of invention to use Witt's invention with Makaran's multiple brush-type motor control apparatus and method. The advantage of combining the two would provide a system that allows the use of low or high frequency switching signals, thereby eliminating and/or reducing EMI issues.

Regarding Claim 2. Witt discloses an operating speed of the fan (motor) is a function of the voltage level of the linear voltage (column 2 lines 2-6).

Regarding Claim 5. Witt discloses a first transistor (Figure 3 item 26) having a gate for receiving said pulse width modulation signal and a source coupled to a first potential', a current shunting element (Figure 3 item 32) having a first terminal coupled to a drain of the first transistor and a second terminal coupled to a second potential, a capacitor (Figure 3 item 30) having a first terminal coupled to the second terminal of the current shunting element, and an inductor (Figure 3 item 28) having a first terminal coupled to a second terminal of the capacitor and a second terminal coupled to the first terminal of the current shunting element and to the drain of the first transistor.

Regarding Claims 6, 7 and 19-22. Witt discloses a low radiated emission motor speed control with PWM regulation which includes a pulse width modulation generator (Figure 3 item 22) for generating a pulse width modulation signal', and a drive stage circuit (Figure 3 items 26, 28, 30 and 32) coupled to the pulse width modulation generator and for switch mode converting a supply voltage into a linear voltage for driving a fan, wherein a voltage level of linear voltage is a function of the pulse width modulation signal. Refer to the abstract, column 2 lines 56-67, column 3 lines 1-40 and column 4 lines 20-38. It should be noted that in the Witt is related to

blower motor for heat and ventilation (column 1 lines 10-22) and provides that same structure for switching PWM to linear voltage (sinusoidal ripple voltage) where Witt teaches away from using linear voltage amplifiers.' However, Witt does not disclose an operating frequency of the pulse width modulation is approximately within the range of 1-500 microfarads.

Refer to Chapter 2100, 2131 .03 section 1. "When, as by a recitation of ranges or otherwise, a claim covers several compositions, the claim is anticipated' if one of them is in the prior art." *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (citing *In re Petering*, 301 F.2d 676, 682, 133 USPQ 275, 280 (CCPA 1962)) (emphasis in original) (Claims to titanium (Ti) alloy with 0.6-0.9% nickel (Ni) and 0.2-0.4% molybdenum (Mo) were held anticipated by a graph in a Russian article on Ti-Mo-Ni alloys because the graph contained an actual data point corresponding to a Ti alloy containing 0.25% Mo and 0.75% Ni and this composition was within the claimed range of compositions.). Witt discloses a inductor with 33 micro (H), capacitor with 47 microfarads, and a difference between a first and second potential is about 7 volts. Refer to column 3 lines 18-33.

Regarding Claim 9. Witt discloses current shunting element comprises a diode having an anode coupled to the drain of said first transistor and to the second terminal of the inductor, and a cathode coupled to said second potential and to said first terminal of said capacitor. Refer to Figure 3.

Regarding Claims 12 and 17. Witt discloses a fan (motor) coupled across the capacitor (Figure 3 item 30) where the linear voltage for driving the fan is generated across the capacitor. Refer to the abstract', column 2 lines 56-67, column 3 lines 1-40 and column 4 lines 20-38.

Regarding Claim 24. Witt discloses an operating speed of the fan (motor) is a function of the voltage level of the linear voltage (column 2 lines 2-6).

3. Claims 3, 4, 11, 13-16, 25 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Witt (5742142) and Makaran et al (6774587) as applied to claims 1, 2, 5, 8, 9, 12, 17, 23 and 24 above, and further in view of Frankel et al (6801004).

Regarding Claims 3, 4, 11, 13-16, 25 and 26. Witt discloses an low radiated emission motor speed control with PWM regulation which includes a pulse width modulation generator (Figure 3 item 22) for generating a pulse width modulation signal', and a drive stage circuit (Figure 3 items 26, 28, 30 and 32) coupled to the pulse width modulation generator and for switch mode converting a supply voltage into a linear voltage for driving a fan, wherein a voltage level of linear voltage is a function of the pulse width modulation signal. Refer to the abstract, column 2 lines 56-67, column 3 lines 1-40 and column 4 lines 20-38. It should be noted that in the Witt is related to blower motor for heat and ventilation (column 1 lines 10-22) and provides that same structure for switching PWM to linear voltage (sinusoidal ripple voltage) where Witt teaches away from using linear voltage amplifiers.

However, Witt does not disclose the operating frequency of the PWM generator is approximately within the range of 200-100kHz.

Makaran discloses a multiple brush-type motor control apparatus and method which includes the operating frequency (PWM) can be at a high frequency of 10Khz – 500kHz. Refer to column 4 lines 46-59.

However, neither Witt nor Marakan disclose a thermal sensor coupled to the PWM generator or a speed sensor coupled to the fan motor.

Frankel discloses a system and method of controlling cooling fan speeds that includes a thermal sensor (Figure 1 item 116) coupled to the PWM generator (Figure 1 item 12Q) and a speed sensor (Figure 1 item 1 16) coupled to the fan motor. Further, the fan motor is controlled based on the signals provided from the sensors.

It would have been obvious to one of ordinary skill in the art at the time of invention to use Witt's and Marakan's inventions with Frankel's invention. The advantage of combining the two would provide intelligent system with adjustments to the fan motor/cooling system based on the speed of the motor and thermal temperature of the system.

Response to Arguments

4. Applicant's arguments filed 2/8/07 have been fully considered but they are not persuasive.

Applicant argues that there is no reason to combine Witt and Marakan and that both teachers away from the combination. Applicant arguments are taken in full consideration.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references reflect the use of a motor control method for a fan and using similar high frequency for control.

As stated in the rejection, Witt does not disclose the operating frequency of the PWM generator is approximately within the range of 200-100kHz. Makaran discloses a multiple brush-type motor control apparatus which includes the operating frequency (PWM) can be at a high frequency of 10Khz – 500kHz. Refer to column 4 lines 46-59. The use of the operating frequency is documented in Marakan. Examiner requests that the Applicant cite an specific

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advantage to having it exactly within the range claimed in the specification and in arguments.

Rejection is maintain based on 35 U.S.C. 103(a).

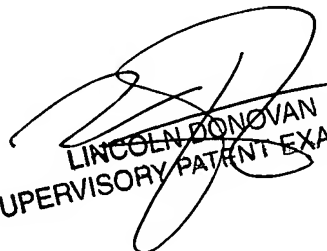
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tyrone W. Smith whose telephone number is 571-272-2075. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2800 ext. 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tyrone Smith
Patent Examiner

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LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER